

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	)	
	)	
	)	
v.	)	Magistrate No. 22-2
	)	[UNDER SEAL]
DONALD ANTHONY WARE, JR.	)	

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Marc Wilner, being duly sworn according to law, depose and state as follows:

**INTRODUCTION**

1. Your Affiant is a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), Philadelphia Field Division, Pittsburgh Office, Firearms Trafficking Group, having been so employed since 2015. In that capacity, your Affiant is an investigative or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7); that is, an officer of the United States who is empowered by law to conduct investigations of and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516.

2. Prior to my employment with the ATF, I was employed as a Probation Officer with the Allegheny County Court of Common Pleas from 2008 to 2015. For over six (6) years, I served with the High Impact Unit of the Probation Office. This specialized unit dealt with probationers and parolees who had a high risk of recidivism, such as drug dealers, violent offenders and gang members. I worked closely with the Pittsburgh Police Intelligence Unit (who tracked the gang active within the city of Pittsburgh) and the Allegheny County Sheriff’s Office Fugitive Unit. I participated in numerous searches during my time with the Probation Office and many of those searches resulted in the seizure of guns and drugs.

3. Upon joining the ATF in 2015, I received extensive training at the Department of Homeland Security Criminal Investigative Training Program and the ATF Special Agent Basic Training at the Federal Law Enforcement Training Center. This training lasted for over six (6) months and covered topics including federal criminal statutes, interviewing and interrogation techniques, arrest procedures, search and seizure, narcotics, undercover techniques, search warrant applications, and various other investigative techniques.

4. As a Special Agent with the ATF, I have experience and am responsible for investigating violations of federal firearms and drug laws. In the course of my training and experience, I have become familiar with the methods and techniques associated with the possession and distribution of firearms and drugs, and the organization of firearms and drug conspiracies. In the course of conducting these investigations, I have been involved in the use of the following investigative techniques: interviewing informants and cooperating witnesses, conducting physical surveillance, consensual monitoring and recording of both telephonic and non-telephonic communications, conducting court-authorized wire and oral interception electronic surveillance, and preparing and executing search warrants which have led to substantial seizures of narcotics, firearms, contraband, and evidence of criminal activity.

5. Your Affiant has personally participated in the investigation described herein. In addition, your Affiant has reviewed information obtained from law enforcement and commercial databases, and has discussed this case with, and reviewed the reports of, other law enforcement officers who have been involved in this investigation or who have investigated the subjects of this investigation and their associates in the past.

6. As an Agent with the ATF, your Affiant knows that Title 18, United States Code, Section 922(a)(6) prohibits a person from making a false statement as to a material fact to a Federal

Firearms Licensee (FFL).

7. This Affidavit is submitted in support of a criminal complaint and an arrest warrant for Donald Anthony WARE (hereinafter, "WARE") for violating Title 18, United States Code, Section 922(a)(6)

8. Because this Affidavit is being submitted for the limited purpose of supporting probable cause to arrest as stated herein, I have not included each and every fact known to me concerning this investigation.

### **FACTUAL BACKGROUND**

9. Your Affiant knows that the "straw purchase" of a firearm is when someone, purchases a firearm for another person and completes the ATF Form 4473. When completing the ATF Form 4473, the purchaser answers multiple questions, such as question 21a states, "Are you the actual transferee/buyer of the firearm(s) listed on this form and any continuation sheets (ATF Form 5300.9A)? **Warning: You are not the actual transferee/buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual transferee/buyer, the licensee cannot transfer the firearm(s) to you.**". The question is commonly answered by checking a "yes" or "no" box. If you check "no" the Federal Firearms Licensee (FFL) is not permitted to sell you the firearm. "Straw purchasers" commonly answer the question by checking "yes" due to the knowledge of this. By falsely answering any question of the said ATF Form 4473, the purchaser is committing a violation of federal law.

10. During the month of October 2021, Your Affiant began investigating WARE in regard to his large amount firearms purchases, minimal employment and association with other firearms traffickers. Your affiant also conducted a Pennsylvania Department of Labor and Industry query of WARE's employment. The said query showed that WARE last reported employment the second

quarter of 2021, where he reportedly earned approximately \$399.00. It should be noted that based on the same query, WARE reported earning \$686.73 in all of 2021.

11. On November 29, 2021, WARE was interviewed by investigators. During the interview he admitted to purchasing multiple firearms for individuals, other than himself. WARE reported doing so because he needed money. WARE reported charging people different prices depending on the number and type of firearms he was purchasing for them, and that he purchased the firearms for other people for profit. WARE admitted to “straw purchasing” the below firearms from the below FFLs.

<b>PURCHASE DATE</b>	<b>FIREARM</b>	<b>SN</b>	<b>FFL</b>
1. 04/23/2021	Glock, 19, 9mm	BTCS858	National Armory
2. 05/11/2021	Glock 19, 9mm	AFHH041	Keystone
3. 05/14/2021	Taurus, G3, 9mm	ACB555026	Allegheny Arms
4. 05/18/2021	Glock 17, 9mm	BTBN272	Allegheny Arms
5. 05/30/2021	SAR, 9mm	t1102-21bv69906	Dunhams Waterworks
6. 06/04/2021	Springfield, XDS, 9mm	BA216098	Verona
7. 06/09/2021	SAR, 9mm	T1102-21BV72065	Dunhams Waterworks
8. 06/09/2021	SAR, 9mm	T1102-21BV69907	Dunhams Waterworks
9. 07/03/2021	Springfield, XD, .45	BY331081	Verona
10. 08/30/2021	Taurus, G3, 9mm	ACC645224	Dunhams Monroeville
11. 10/15/2021	Glock 17, 9mm	AFKC916	Keystone
12. 10/15/2021	Glock, 23, .40	BSYK682	Keystone
13. 10/26/2021	Ruger, 5.7, fiveseven	64230369	Dunhams Waterworks
14. 10/28/2021	Glock, 43, 9mm	AGBF424	Dunhams North Hills
15. 10/28/2021	Glock, 19, 9mm	BUNZ777	Dunhams North Hills
16. 10/28/2021	Glock, 45, 9mm	BUEX536	Dunhams North Hills
17. 10/29/2021	Glock, 43x, 9mm	BLLK495	GPQC
18. 10/29/2021	Glock, 32, .357	KDX800	GPQC
19. 10/29/2021	Ruger, Five-Seven, 5.7	643-03624	Island Ave Firearms
20. 10/30/2021	CAI, Draco, 7.62	21PMD-25048	National Armory <sup>1</sup>
21. 10/31/2021	Glock, 38, .45	RNU956	Allegheny Arms
22. 10/31/2021	Glock 48, 9mm	BUFK287	Dunhams Waterworks
23. 10/31/2021	Glock 17, 9mm	BUMT829	Dunhams Waterworks

<sup>1</sup> It is worth noting that WARE completed the ATF Form 4473 form for this purchase on October 25, 2021, but the actual purchase/transfer was completed on October 30, 2021.

<b>PURCHASE DATE</b>	<b>FIREARM</b>	<b>SN</b>	<b>FFL</b>
24. 11/01/2021	Glock, 20, 10mm	BSYD195	Dunhams Waterworks
25. 11/01/2021	Glock 21, .45	AGAH708	Dunhams Waterworks
26. 11/01/2021	Glock 17, 9mm	BUMT755	Dunhams Monroeville
27. 11/01/2021	Glock 19, 9mm	BUAS826	Dunhams Monroeville
28. 11/01/2021	Glock 27, .40	CPX087US	Allegheny Arms
29. 11/02/2021	Glock, 26, 9mm	AFYT225	National Armory
30. 11/02/2021	Glock, 22 .40	BTSD950	National Armory
31. 11/02/2021	Core, Core-15, 5.56	GTOCO31499	National Armory
32. 11/02/2021	Glock, 32,,357	BTZE171	Petes North Huntingdon/Greensburg PA
33. 11/02/2021	Glock, 27,,40	FVB642	Petes North Huntingdon/Greensburg PA
34. 11/03/2021	Ruger, Five-Seven, 5.7	64170916	Petes North Huntingdon/Greensburg PA

12. Your affiant and other investigators from ATF have collected ATF Form 4473s in connection with most of the above-listed transactions. On all of the ATF Form 4473s collected, WARE had answered question 11.a that he was the purchaser of the firearm(s) listed on the ATF Form 4473. This includes the ATF Form 4473 WARE completed in connection with the November 3, 2021 purchase at Pete's FFL in North Huntingdon, PA of a Ruger 57, 5.7x28 caliber pistol, bearing serial number 641-70916.

13. During the interview WARE was explained that the ATF Form 4473, which is filled out during each firearms transaction at an FFL, is in fact a federal form. Therefore, lying on the said form, in turn is committing a federal offense. WARE was explained that specifically question 11a states, "Are you the actual transferee/buyer of the firearm(s) listed on this form and any continuation sheets (ATF Form 5300.9A)? **Warning: You are not the actual transferee/buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual transferee/buyer, the licensee cannot transfer the firearm(s) to you.**" WARE confirmed that

he in fact lied when answering the said question, by checking the box labeled “Yes”. He confirmed that, at the time he filled out the form, he knew he was lying by marking “Yes”. WARE confirmed this for all of the firearms described above, including the Ruger pistol purchased on November 3, 2021 from Pete’s FFL. WARE was very familiar with the said question and was able to recite it to investigators during the interview. At the close of this interview, ATF investigators informed WARE that he was no longer to purchase any firearms.

14. In 2021, your affiant was also conducting a straw purchasing investigation into an individual named John MOON. On November 3, 2021, your affiant was made aware that MOON was attempting to purchase several firearms at FFL Legion Arms in McKeesport, PA. Officers from the McKeesport Police Department arrived at Legion Arms to arrest Moon. When they did so, WARE approached them and asked why they were arresting MOON, as MOON was buying WARE’s guns. At the time he was detained by the McKeesport officers, MOON had already completed the ATF Form 4473 at Legion Arms, indicating that he was purchasing the firearms for himself. Your affiant learned that in the preceding days, WARE had attempted to purchase firearms from Legion Arms himself but was denied by the employees at the store. WARE was interviewed on November 3, 2021 by ATF investigators, and admitted that he had asked MOON to purchase the firearms for him and had provided MOON with cash to do so.

15. On January 1, 2022, your affiant was made aware that WARE had attempted to purchase a firearm or firearms at the Dunam’s Sports FFL in Monroeville, PA. According to the information provided to your affiant, WARE initially attempted to purchase a firearm or firearms on December 31, 2021, but left due to long wait times; he returned on January 1, 2022 and again attempted to purchase the firearm or firearms.

**CONCLUSION**

16. WHEREFORE, your Affiant believes that there is probable cause to believe, based upon my training and experience and facts of this investigation, that WARE violated Title 18, United States Code, Section 922(a)(6) which prohibits a person from making a false statement as to a material fact to a Federal Firearms Licensee.

The above information is true and correct to the best of my knowledge, information, and belief.

/s/ Marc R. Wilner

Marc R. Wilner, Special Agent,  
Bureau of Alcohol, Tobacco, Firearms and  
Explosives

Sworn and subscribed to before me, by telephone  
pursuant to Fed. R. Crim. P. 4.1(b)(2)(A)  
this 3<sup>rd</sup> day of January, 2022

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HONORABLE CYNTHIA R. EDDY  
Chief United States Magistrate Judge